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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

20 Cr. 412 (AT)

22 Cr. 201 (AT)

BRIAN KOLFAGE & ANDREW BADOLATO,

Defendants.

Sentence

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New York, N.Y.

April 26, 2023

11:00 a.m.

Before:

HON. ANALISA TORRES,

District Judge

APPEARANCES

DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

BY: ROBERT B. SOBELMAN

DEREK WIKSTROM

Assistant United States Attorneys

CESAR de CASTRO

DAVID DESTEFANO

Attorneys for Defendant Kolfage

MAYOR BROWN, LLP

Attorneys for Defendant Badolato

BY: KELLY KRAMER

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(Case called)

THE COURT: Counsel, please note your appearances, please.

MR. SOBELMAN: Robert Sobelman and Derrick Wikstrom for the United States, and we're joined at counsel table by Christopher de Grandpre, a paralegal in our office.

MR. De CASTRO: Cesar de Castro and David DeStefano for Mr. Kolfage who is to our right.

MR. KRAMER: Kelly Kramer. I'm here on behalf of Mr. Badolato who is to my right.

THE COURT: Please be seated. This morning's sentencing hearing concerns two cases, *United states v. Brian Kolfage* and *Andrew Badolato*, docket number 20 Cr. 412, and *United States v. Brian Kolfage*, docket number 22 Cr. 201. In connection with today's proceedings, I've reviewed the presentence investigation report for Mr. Kolfage, dated July 19, 2022, as revised on April 3, 2023, including the recommendation and addendum; the presentence investigation report for Mr. Badolato, dated July 25, 2022, as revised on April 3, 2023, including the recommendation and addendum; Mr. Kolfage's sentencing submission dated April 12, 2023, including letters from his friends, family, colleagues, and others. Mr. Badolato's sentencing submission dated April 12, 2023, including letters from his friends, family, colleagues, and others; and the government's sentencing memorandum, dated

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1 April 19, 2023, and the consent order of restitution. Have the
2 parties received all of these submissions?

3 MR. SOBELMAN: Yes, your Honor.

4 MR. De CASTRO: We have, your Honor.

5 MR. KRAMER: Yes, your Honor.

6 THE COURT: Are there any further submissions?

7 MR. SOBELMAN: Not from the government.

8 MR. De CASTRO: Not for Mr. Kolfage.

9 MR. KRAMER: Your Honor, we did file under seal an
10 *ex parte*, a supplemental submission, and I just wanted to make
11 sure the Court had an opportunity to see that.

12 THE COURT: Yes, I did receive it and review it
13 thoroughly. I am now going to ask some questions. Please wait
14 until I call your name to give your answer.

15 Have you read the presentence report, and have you
16 discussed it with your client, Mr. de Castro?

17 MR. De CASTRO: Yes, your Honor. We received the
18 report and we've discussed it with Mr. Kolfage.

19 THE COURT: Mr. Kramer?

20 MR. KRAMER: Yes, your Honor, same answer. Well, for
21 Mr. Badolato.

22 THE COURT: Yes. Have you read the presentence report
23 and have you discussed it with your lawyer, Mr. Kolfage?

24 DEFENDANT KOLFAGE: Yes, your Honor.

25 THE COURT: Mr. Badolato?

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1 DEFENDANT BADOLATO: Yes.

2 THE COURT: Have you had the opportunity to go over
3 with your lawyer any errors in the report or anything else that
4 should be taken up with me, Mr. Kolfage?

5 DEFENDANT KOLFAGE: Yes, your Honor.

6 THE COURT: Mr. Badolato?

7 DEFENDANT BADOLATO: Yes, your Honor.

8 THE COURT: And AUSA Sobelman, have you reviewed the
9 presentence report for Mr. Kolfage and Mr. Badolato?

10 MR. SOBELMAN: Yes, your Honor.

11 THE COURT: Are there any objections to the
12 presentence report regarding factual accuracy. Mr. de Castro?

13 MR. De CASTRO: No, your Honor.

14 THE COURT: Mr. Kramer?

15 MR. KRAMER: No, your Honor.

16 THE COURT: The government?

17 MR. SOBELMAN: No, your Honor.

18 THE COURT: Hearing no objections, the Court adopts
19 the factual recitations set forth in the report, each report,
20 and both reports will be made part of the record in this matter
21 and placed under seal. If an appeal is taken, counsel on
22 appeal may have access to the sealed reports without further
23 application to the Court. Although courts are no longer
24 required to follow the sentencing guidelines, I am still
25 required to consider the guidelines in imposing sentence. And

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1 to do so, it is necessary that I accurately calculate the
2 sentencing range. With respect to Mr. Kolfage, there is a plea
3 agreement in this case in which the parties stipulated to a
4 guidelines range of 51 to 63 months' imprisonment, based on an
5 offense level of 24, and a criminal history category of I. The
6 presentence report contains the same calculation.

7 With respect to Mr. Badolato, there is a plea
8 agreement in this case, in which the parties stipulated to a
9 guideline range of 41 to 51 months' imprisonment based on an
10 offense level of 22, and a criminal history category of I. The
11 presentence report contains the same calculation. Based on my
12 independent evaluation of the guidelines, I find that for
13 Mr. Kolfage the offense level is 24, the criminal history
14 category is I, and the sentencing range is 51 to 63 months'
15 imprisonment. With regard to Mr. Badolato, the offense level
16 is 22, the criminal history category is I, and the sentencing
17 range is 41 to 51 months' imprisonment.

18 Now I will hear from the parties. First with respect
19 to Mr. Kolfage, does the government wish to be heard?

20 MR. SOBELMAN: Yes, your Honor. Your Honor, our
21 submission was detailed, and your Honor is familiar with the
22 facts of the case from the two trials we had for Mr. Shea, so
23 I'll be brief, but of course happy to answer any questions the
24 Court has.

25 Mr. Kolfage, in contrast to Mr. Badolato and Mr. Shea

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1 was committing crimes before the We Build the Wall scheme was
2 even launched. As is detailed in the presentence report and in
3 the government's submission, he was lying to banks. He was
4 lying to get loans for home equity. He was lying to get loans
5 for a boat. He falsified bank documents. He falsified credit
6 card statements. He drafted a fake letter from a real person
7 who works at the U.S Department of Veteran's Affairs. These
8 things happen all months before, sometimes a year before the We
9 Build the Wall scheme was even launched by him and Mr. Shea and
10 others. That puts him in a different category from
11 Mr. Badolato and Mr. Shea in terms of his culpability, the need
12 for specific deterrence and the government's concerns about
13 recidivism. I'll come back to the core offense conduct in a
14 moment, but to skip over that to what happened after the
15 defendants were arrested in this case.

16 Mr. Kolfage is also set apart from Mr. Badolato and
17 Mr. Shea. Mr. Shea, of course, did not accept responsibility
18 for his actions. He didn't plead guilty. He went to trial,
19 and his sentencing will be held in June. Mr. Badolato -- but
20 of course Mr. Shea, as far as the government knows, didn't make
21 public statements, didn't talk to the media, didn't claim that
22 the prosecution was somehow unjust or improper. He simply
23 denied the allegations against him, as he had the right to do
24 and proceeded to trial. Mr. Badolato accepted responsibility
25 fairly quickly in this case. Similarly, did not go on some

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1 kind of public offensive against it.

2 Mr. Kolfage's postarrest conduct was highly troubling,
3 and I think both is deserving of punishment, general deterrence
4 and perhaps more importantly is an indicator of potential
5 recidivism and the need for specific deterrence. As we laid
6 out in our submission, Mr. Kolfage has taken legal
7 responsibility for his conduct by pleading guilty, but has been
8 continuing to send out public messaging that undermines the
9 notion that he really does accept responsibility for his
10 conduct, and made similar statements to the Manhattan DA's
11 office with respect to their separate, but related
12 investigation. Where he said to them something along the lines
13 of, well, I never intentionally lied to anyone, which of course
14 is contrary to his guilty plea in this case; and contrary to
15 the way in which I think he presents himself in his submission
16 as somehow accepting responsibility fully and being remorseful
17 for his actions.

18 Particularly troubling is the website that Mr. Kolfage
19 launched, Fight for Kolfage.com, by which he claims to have
20 raised tens of thousands of dollars from more than a thousand
21 people based on completely false claims about the government,
22 the nature of the prosecution, the claims in this case, false
23 statements that he's not guilty, when in fact he has admitted
24 his guilt, and smears against the court itself. It's truly
25 appalling and undermines the cause of justice in the criminal

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1 justice system, and is something we think should weigh heavily
2 on the Court in deciding whether Mr. Kolfage truly is a risk of
3 recidivism and should be specifically deterred in this case.

4 To focus for a moment on the conduct, the core conduct
5 in this case. Mr. Kolfage in his submission tried to paint
6 this as something that sort of arose over time, that he said
7 one thing to the public, but he was doing another in private,
8 and it sort of just happened, that really he set out with
9 Mr. Shea and others to raise money for the government to build
10 a wall. And literally Government Exhibit 1 at both of
11 Mr. Shea's trials destroy that notion. It's quoted in our
12 submission, I won't repeat it again, but it is clear from the
13 middle of December 2018, before the GoFundMe goes live that
14 both Mr. Kolfage and Mr. Shea already understand, the
15 government is not going to be able to take the money they
16 raise, and they discuss giving it to themselves, to an
17 organization they control. And all the communications in
18 December, in January, and going on between Mr. Kolfage,
19 Mr. Shea and his other co-conspirators make very clear that
20 Mr. Kolfage's top priority in launching this GoFundMe, in
21 running the fundraiser in raising millions of dollars is
22 himself. It's not border security. It's not a political
23 agenda. It's not The Wall. It's not any of that. He may care
24 about those things. He certainly said a lot of about them.
25 They're not relevant here, and they're not relevant in this

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1 case. But what is relevant, is his own greed. And he's
2 someone who of course has suffered a terrible tragedy, who has
3 served our country, and we honor him for that. We thank him
4 for that. But it's what he's done since then, the conduct in
5 this case, it's a dishonor to our country, and he's betrayed
6 the trust that hundreds and thousands of people put in him. He
7 use misused his public profile, and in doing so victimized many
8 different people. He victimized GoFundMe. He victimized the
9 We Build the Wall organization, a non-profit. He victimized
10 some of the people who worked for that organization. He
11 victimized the donors of that organization. He victimized the
12 IRS and the U.S. government by doubling down on his fraud and
13 filing false tax returns, including a false tax return he filed
14 after being charged in this district in this case. It's an
15 extremely troubling pattern of conduct. That again, started
16 before We Build the Wall, and continued after his arrest in
17 this case. And the government has real concerns about him
18 being an economic danger moving forward.

19 It's important to note that the most of Mr. Kolfage's
20 offense conduct was committed from his own home, where he is
21 asking to be allowed to remain with a phone, with a computer.
22 Of course he did travel as part of his involvement with We
23 Build the Wall. He traveled multiple times to the border. He
24 traveled other places in the country for meetings and for sort
25 of town hall style forums with potential donors and supporters.

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1 At many of those public meetings, he lied to the donors' faces,
2 and reasserted the same lies about how he wouldn't take a cent,
3 he wouldn't take a penny. He sat on a panel discussion with
4 Mr. Bannon reiterated these, and then Mr. Bannon echoed saying,
5 oh, everyone here that's involved in We Build the Wall,
6 including Mr. Bannon, including Mr. Kolfage, we're all just
7 volunteers. And around the same time, Mr. Kolfage is sending
8 text messages about wants the 100,000 upfront. He wants 20,000
9 a month after that, and every month making sure he's getting
10 his pay, his kickbacks laundered through different entities,
11 including Mr. Bannon's entity, including Mr. Shea's entity.

12 And at that same time, Mr. Bannon stole more than
13 \$1 million from We Build the Wall, with Mr. Kolfage's
14 knowledge, his consent, his understanding, because they were
15 all lining their pockets. That was what it was set up to do.
16 That was the primary purpose. The primary purpose wasn't doing
17 some good in the world. It was to line their own pockets. And
18 the government again acknowledges Mr. Kolfage's service, thanks
19 him for his service, acknowledge the difficulty with which he
20 lives everyday. But at the same time, he has to be held
21 accountable for his actions, and the government thinks a
22 custodial sentence and a substantial one is necessary in this
23 case in order to do so.

24 THE COURT: I'll hear from Mr. de Castro.

25 MR. De CASTRO: Thank you, Judge. One thing, thank

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1 you for letting me speak, Judge. And I think the first thing
2 I'd like to address is a couple of things Mr. Sobelman talked
3 about which is this concern that the government has for
4 recidivism.

5 First, I think it's addressed in the presentence
6 report that, I mean, statistically he has a very low risk of
7 recidivism. And in this case, there's no sign that there's any
8 cause for concern. I know what the government is raising,
9 which I'll address in a minute, that he's going to commit some
10 other crimes. He pled guilty a year ago, almost a year ago
11 this month. The government points to no issues related to
12 crimes he's committing. He was arrested three years ago on
13 this case, and there's been no issues on his supervision, so
14 I'm also a little confused by the government's presentation
15 here a little in that it's almost a presentation after a
16 trial -- and I know they had a trial, but the trial was not
17 against Mr. Kolfage or Mr. Badolato here. We pled guilty. We
18 pled guilty before that trial, accepted responsibility, and
19 that should go a long way with this Court, with the system that
20 he has accepted responsibility.

21 We argued in our sentencing submission that the Court
22 should vary substantially, and I note that the government
23 doesn't even acknowledge a variance here. They'll just saying
24 low end of the guidelines, and we think this Court should vary
25 downward based on his history and characteristics that

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1 established that Mr. Kolfage is a remarkable American that made
2 many mistakes. He made criminal mistakes, but his conduct for
3 the duration of the conspiracy was aberrant behavior. I know
4 the Court took a lot of issue with that in their memo, and I
5 want to address that.

6 Something the government barely talks about, and I
7 like to spend some time on is the Bureau of Prisons. And my
8 view based on my experience in this courthouse for many years,
9 my experience with the Bureau of Prisons for many, many years
10 and case law that I do not believe -- and I submit to the
11 Court -- that he is not going to receive appropriate care. And
12 as we addressed in our memo, the offense, his role in it, the
13 public face of this crime is significant, but it should be
14 acknowledged that -- and the government has argued it
15 throughout and they argued it at a trial and they've argued it
16 all along -- that the real architects are different people of
17 this. But yes, they've argued that he was the public face.
18 And that, for example, when the organization became an
19 organization before it was just a GoFundMe if you will, that
20 the daily operations were essentially Mr. Bannon and
21 Mr. Badolato. And so that he made public appearances and he
22 certainly had decision making, we're not the ones saying that.
23 I'm not saying he did nothing. I'm just saying what the
24 government has said is to acknowledge that his role was less
25 architect, less in terms of the post -- he's the architect of

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1 the first GoFundMe. But after they started the We Build the
2 Wall organization and that became a functioning organization,
3 they had general counsel. They had counsel. They had lots of
4 other people running the day to day.

5 And Mr. Sobelman is correct. Mr. Kolfage committed
6 crimes. He accepted money. He promised people that he would
7 not, and he did. And he's here accepting responsibility. This
8 isn't he went to trial and he's been fighting the charges and
9 saying none of it's true, and so we have to have a big fight
10 about the facts. That's not what we're doing here. And so I
11 don't think there's a concern for recidivism. I think -- and
12 sort of the last point we made, which I can address very
13 briefly later, is the statistical analysis, which is important
14 the Court has to consider, what sentences are normally given
15 out for this type of fraud, this number in our district and in
16 our circuit, and nationwide.

17 But in terms of just to sort of address and get out of
18 the way, the concern about protecting the public, which I think
19 speaks to this recidivism point. I think as probation notes
20 and as we've noted, I think the likelihood of recidivism here
21 is extremely low. But so turning to his history and
22 characteristics. I know the Court has read carefully and
23 considered the parties' submissions. But allow me at least to
24 highlight sort of parts of our submission that I think are
25 important. Despite the government's claim that because this

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1 fraud in this case lasted a period of years that somehow
2 defeats our argument that he's otherwise led a law-abiding
3 life. We never made an argument that he didn't commit crimes.
4 We never made an argument that this was a one-off, one day, one
5 crime. No, we've acknowledged the conspiracy. But arguing
6 that his conduct is aberrant, the government seems to take
7 great offense that we're saying look at Mr. Kolfage's whole
8 body of work. Look at his life. The government has not
9 presented the Court with any arguments about him having a
10 lifetime of crime. To the contrary, it's this case and the
11 related tax case, and it is related. It's the, not reporting
12 the income from this case. Obviously, he's not a repeat
13 offender. His military service we've laid out in our
14 submission and is laid out in the PSR, but it's notable he had
15 two tours in Iraq. He voluntarily enlisted in January of 2001,
16 and he was deployed to Kuwait, and then he volunteered in
17 August of 2004, for a second tour. Fourteen military
18 commendations. They were not given to him because of his
19 injuries. It wasn't, oh, look at what he suffered, let's give
20 him commendations. They're for his valor at different times,
21 at different times during his service, including the
22 Purple Heart and the Air Force commendation medal.

23 His injured suffered in 2004 are apparent. They're
24 well-documented. We discussed them, and they changed his life.
25 But the argument that the government made in their submission,

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1 which of course this is my opportunity to respond to it, is
2 that he led a double life. But following his injuries after
3 dozens and dozens of surgery and rehabilitation, he showed
4 remarkable resolve. It's amazing that he survived, and he
5 dedicated his time to helping others similarly wounded and
6 disabled to come to terms with their new realities and provide
7 a source of inspiration.

8 The government likes to cite to Judge Marrero's
9 opinion about white collar defendants, the double lives they
10 lead. That really couldn't be farther from the truth as it
11 relates to Mr. Kolfage, and I'll tell you why. Certainly he's
12 committed the offenses here. Is he a lifetime fraudster? Is he
13 a Ponzi schemer? No. Judge Marrero and many judges point out
14 that many white collar defendants, wealthy individuals commit
15 crimes. They become the pillars of their community, and they
16 live these double lives. They're wonderful to their family.
17 They donate to charities. They're out in the public eyes doing
18 things. But they become pillars to their community by donating
19 money to charities and religious institutions and the like by
20 virtue of the health that they obtained, sometimes through
21 ill-gotten gains. Sometimes not, and sometimes a combination
22 of those. It's usually their wealth, prestige and financial
23 generosity that's cited in the sentencing mitigation
24 submissions that you see regularly in this district and across
25 the country.

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1 But what distinguishing Mr. Kolfage from those
2 defendants is the generosity of time and effort to those around
3 him. We presented a very tiny little portion of what he does
4 to provide inspiration. That makes this fall even bigger
5 because he is an inspiration to so many who are struggling with
6 their disability. He spent countless hours with wounded
7 warriors, amputees, children, adults, all in an effort to help
8 those similarly situated. And he measures his charity, unlike
9 a lot of those defendants, who measure them in dollars, he
10 measured them in time devoted and the lives that he can help
11 and that he can change and that he can inspire. That makes him
12 truly different than many of the white collar defendants that
13 come out.

14 Every white collar defendant in this case under 2B1.1
15 the government argues the same. Greed, of course. It's a
16 crime, and we acknowledge it, but that doesn't end the
17 discussion. They cite to *Regensberg*, which I mentioned, and
18 he's materially different than *Mr. Regensberg*. He was
19 perpetrating a Ponzi scheme. People had known him for years.
20 He defrauded members of his synagogue that he held a position
21 of authority in. He acted alone. He was conceiving and
22 perpetuating a fraud against victims he knew and pocketing all
23 that money himself. I cite all those factors because those are
24 the factors that Judge Marrero cited when he made the comments
25 they chose to pluck out and put into their submission. All

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1 those factors were extremely important to Judge Marrero. The
2 case is not analogous, but I understand why the government
3 might use that, because he went on -- Judge Marrero went on to
4 discuss the arguments that white collar defendants generally
5 make. Stressing that his arguments were not uncommon, but they
6 were very common.

7 But *Regensberg* went to trial. He denied that he
8 committed the crimes. And if he did it, he said it was because
9 he was suffering from a pathological gambling addiction, making
10 excuses for his conduct for defrauding those closest to him.
11 Is that Mr. Kolfage here? Those are not the facts here. Those
12 are not. He pled guilty, accepted responsibility a year ago.
13 And I submit to the Court that Judge Marrero was not talking
14 about a defendant like Mr. Kolfage when he wrote that opinion.

15 I want to take a minute to discuss the government's
16 repeated and lengthy reference to Mr. Kolfage's use of social
17 media to attack this case. First, most of what they cite is
18 from 2020, well before even our involvement in the case. He's
19 not the first defendant in a high profile matter to lash out
20 when he perceive that he was being demonized. He's not the
21 first. He will not be the last. And as social media continues
22 to perpetuate our communities and our lives, unfortunately in
23 my opinion, people lose a filter, and people lash out
24 sometimes. And in our day where people read the news today and
25 forget it tomorrow, it gives people more comfort to just tweet

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1 or do whatever it is, whatever social media platform they like
2 to use. And I think that's concerning for our society, but I
3 think it's not uncommon in his situation, but he'll address a
4 little bit of that himself. It doesn't represent some contempt
5 for this court or the government that has any bearing on his
6 likelihood to reoffend or ability to be rehabilitated. I don't
7 think the government is arguing that this Court should punish
8 him harsher for statements he made prior to pleading guilty
9 that didn't exhibit an acceptance of responsibility. I don't
10 think they're staying that. I hope not, because I don't really
11 follow that argument. Yes, he's saying I'm not guilty. Yes,
12 I'm going to fight the case. Everybody is demonizing him
13 throughout the country and he says those things. Okay, fine.
14 But he accepted responsibility. He came in publicly and
15 accepted responsibility. Fair game. In my view fair game for
16 those statements that he pled guilty, after he pled guilty and
17 then there's those statements. We're talking about very few
18 posts, and he was not avoiding responsibility. And the
19 government cites these notes from a meeting Mr. Kolfage had
20 with the New York County District Attorney's office. Following
21 his plea, somehow it seems presumably suggesting that
22 Mr. Kolfage is really not accepting responsibility, and did not
23 to even a brother or a sister organization. But it's
24 interesting that they really don't continue that thread,
25 because they don't inform the Court about the results of the

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1 interview. Did the DA's office slam the door in his face? No,
2 we were present. And I think the notes, it's something out of
3 context. Notes are notes. Notes are there to remind me as the
4 note taker or the Court as the note taker what happened during
5 the meeting, and sometimes they're not 100 percent accurate.
6 They're not a transcript. What were the results of the Bannon
7 or the DA's office investigation? Well, Bannon was facing
8 prosecution here. Mr. Bannon was facing prosecution here, and
9 President Trump pardoned him.

10 After Mr. Kolfage pled, New York County came knocking.
11 New York County has indicted Mr. Bannon. And who did they
12 utilize to do so? The man sitting next to my colleague. He
13 testified in New York County grand jury, and Mr. Bannon's been
14 indicted. So the notion that he hasn't accepted
15 responsibility, the DA's office believes apparently what he has
16 to say, and he has not said -- and he's not said to this Court.
17 We have not said it in our submission, and he will not say it
18 today, oh, I didn't do anything wrong. That's just not what
19 happened. And so one note that one assistant district attorney
20 took I don't think carries the day here.

21 Let me turn to medical care or lack of medical care
22 that I think Mr. Kolfage will struggle to receive from the
23 Bureau of Prisons. The government and probation gives sort of
24 relatively short attention to what I think is probably one of
25 the biggest issues the Court faces with Mr. Kolfage's

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1 sentencing. I know if I were in the Court's position, this
2 would be a huge issue for me, as it was for Judge Caproni in
3 another case that I had. And essentially the government argues
4 that, well, the Court should lower Mr. Kolfage's sentence 12
5 months within the guidelines because of his medical conditions
6 and his service.

7 But in our submission we argue that sentencing
8 Mr. Kolfage to imprisonment here is taking a big gamble, a
9 risk, and I don't say that lightly. The government criticized
10 our submission heavily on this point pointing out sort of in a
11 footnote that we don't have any basis. For example, a footnote
12 saying that, we don't have any basis regarding medications, and
13 how the Bureau of Prisons is not going to take his medications.
14 But as it knows as one often has to do, including the
15 government in many, many circumstances, we must draw in our
16 experience with the Bureau of Prisons to formulate our
17 opinions. And I've had many experiences with clients, the
18 Bureau of Prisons and medical care over the years that I've
19 been practicing in this court.

20 But for me, the pandemic really exposed the BOP's
21 weaknesses in this regard, given the amount of compassionate
22 release litigation we were all engaged in around spring of
23 2020. I feel like those were years of just compassionate
24 release I felt like is all we were doing. And most of it
25 focused on medical care, at least the cases I was dealing with

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1 were on, Are you going to receive, you client, receive
2 appropriate medical care and/or issues related to Covid. And
3 they're born from experience, and for me it's recent
4 experience. So as I've cited in our sentencing memo the issue
5 with my client *Mr. Wilbright*. He is confined to a wheelchair.
6 He was supposed to be designated to a medical facility.
7 There's no room in a medical facility so he surrendered. He was
8 in a camp. I was getting calls daily from his family that he
9 was essentially in the SHU; and, oh, he arrived with his
10 medications, and they took his medications away.

11 It's not that I think the Bureau of Prisons did
12 anything mean or malicious or anything like that. I know from
13 hearing from correction officers directly speaking to me that
14 the policy is, yes, we want you to bring your medications. We
15 want to see what you're on, bring them, and then we evaluate
16 you, and our doctors will re-prescribe you if we think it's
17 appropriate or not. So those medications essentially go in the
18 garbage. For my client *Mr. Wilbright*, that meant weeks and
19 weeks of waiting for those evaluations, and it took I think
20 more than two months before he was finally sent to a medical
21 facility. And they had to transport him to do it and that took
22 a lot of time as well.

23 But the Bureau of Prisons for Mr. Kolfage as we've
24 argued, it is an extremely heavily lift to care for him. And
25 in a case that I had before Judge Gardephe, which was a trial

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1 matter for which the defendant surrendered post-conviction,
2 immediately upon conviction, who the Bureau of Prisons could
3 not handle her anemia. That's the issue. And it got so bad
4 that Judge Gardephe had to bail her so that she could be
5 treated, so that she was not rushed to hospital several times
6 for blood transfusions, because the Bureau of Prisons would not
7 affirm to the Assistant U.S. Attorney or to the judge that they
8 would provide her with B12 injections, B12, non-narcotic, just
9 the vitamin just to make sure she had what she needed. She
10 went to the emergency three times for transfusions. She was
11 released.

12 Judge Gardephe recommended a medical facility. She
13 went to that medical facility. I spoke to the jail. She spoke
14 to the jail, please bring your medications. She brought her
15 medications -- garbage. They noted them, and then put them in
16 the garbage and said, we will either try to find something
17 similar, or we'll prescribe just this, but it's own going to be
18 after weeks of our evaluation. Well, the short story on that
19 is a three-year sentence turned into a six-month sentence
20 because they could not handle it. And all they needed to do
21 again was treat her anemia, and she had to have a spinal
22 surgery in between so she had some concerns, they couldn't
23 handle it. So they released her to a halfway house in New
24 York, who promptly went literally the day she arrive said, you
25 need to go home. We can't handle your care. And this is not a

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1 person confined to a wheelchair. This is not a person on
2 narcotics. They could not handle it.

3 So I say all that because, yeah, I don't have
4 documented evidence from the Bureau of Prisons, but I have 20
5 years of experience dealing with the Bureau of Prisons to draw
6 on, good and bad, and so I ask the Court to draw on its
7 experience as well. And on that point, the government
8 provides, as it often does, a letter from the Bureau of
9 Prisons. And I don't fault the government for doing that.
10 They should of course reach out to the Bureau of Prisons, but
11 that letter, as I read it, is the same letter that I received
12 in so many cases. It's a form letter that tells you about the
13 levels of care and basically inserts Mr. Kolfage's information.
14 It doesn't answer. To me there's more questions as a result of
15 that letter.

16 The devil is in the details, and I think the
17 collective experience, probably everybody in this room is that
18 the Bureau of Prisons is not the easiest organization to deal
19 with, but they do not answer any of the questions. How are
20 they going to with the debilitating pain he has from sciatica?
21 The stabbing that he feels that goes on every 60 seconds for
22 days at a time, and the way that's handled is with narcotics.
23 And for you, me, anybody else walking who develops sciatica, it
24 can be debilitating, but it can be managed. The difference is
25 our nerve have not been severed. He's at the end of what might

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1 be a lifetime of struggle with sciatica. He's getting that
2 brunt. And if he does not have those narcotics, he can't go
3 on. It's very, very -- it's impossible for him to sustain that
4 pain. He has tried. He's so concerned about being addicted to
5 opioids, as we all are, and he has tried to even taper it down
6 at times in his life. He can never go without it, but he tried
7 to taper it down. Impossible. They've tried all the
8 alternatives they can.

9 My experience with the Bureau of Prisons is they have
10 told me on other cases for other clients, they're not giving
11 narcotics. They're not doing it. Our clients struggle
12 sometimes to get Ibuprofen. I don't know -- and the Bureau of
13 Prisons certainly doesn't address it in their letter. They say
14 we're aware of his condition, great. We can handle it. Well,
15 they don't answer why they couldn't handle my other client with
16 anemia, a very, very simple condition to deal with and they
17 couldn't handle it at all. Not to mention that, it will take
18 them weeks to determine it. I know that the letter also says,
19 Please provide all the medical records. Well, apparently they
20 didn't receive them. I guarantee to you Mr. Kolfage were to
21 surrender, I will try, but it usually takes me weeks before I
22 can get medical records in the hands of somebody to understand
23 what someone's true condition is.

24 So some of the things that the government has
25 addressed in terms of the nature of his offense and things like

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1 that, I've addressed in our submission, and I addressed a
2 little bit here to the Court as well, but there is one point.
3 So the government is sort of asking you to enhance him from
4 this other conduct, which is again my feeling like, Did we have
5 a trial? Was this 404 evidence that I didn't see? I'm aware
6 of it. We had extensive discussions about it in our plea
7 negotiations. And in their footnote they raise this issue of
8 this obstructive conduct and talk about how it wasn't
9 necessarily fully developed. It seems to be fully developed
10 enough that we had plenty of communications for months about it
11 when we were trying to negotiate a plea so that Mr. Kolfage
12 could save the Court and everybody else the time of a trial
13 here.

14 But for all those reasons, I think the Court --
15 there's many reasons the Court would vary here, and I think for
16 me the reason we made the recommendation for no jail -- and I
17 don't make that recommendation very often in the cases I do is
18 because I don't know how. One, I think the Court is well
19 within applying the factors to vary below the 51. And then
20 it's how can this person be sentenced to the Bureau of Prisons
21 and be able to do time and not do time as medical torture. And
22 that's what I'm very worried is going to happen, and I'm going
23 to be before the Court in two months after his surrender
24 saying, he hasn't gotten any of the medical care he needs.
25 He's having this pain every minute, and they will not give him

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1 any narcotics to deal with it, and then I'm going to be force
2 to be making compassionate release motions. On sort of
3 sentencing disparities, the government's only counter to our
4 statistics regarding sentences in this circuit is to say that
5 he was motivated by greed.

6 Well, other than some sort of legitimate need for
7 money, it's not really a distinguishing factor under 2B1.1.
8 It's hard because that new tool that allows us to look at all
9 the statistics is so hard to find out the details of the other
10 women. We don't really know what the subset of cases is, but I
11 don't think I've ever had a case or read a decision in a fraud
12 case where the government didn't make some sort of greed
13 argument or variation on that, and we're not fighting that.
14 And I think most of the cases are -- that's the driving factor.
15 But as statistics go, I'd wager that Mr. Kolfage's medical
16 needs would almost be unparallel. And his true devotion to
17 helping others overcome their physical disabilities, as well as
18 the mental disabilities and despair that come with these
19 significant injuries distinguishes him from any of the
20 defendants in that subset, in that subset where the median
21 sentence is 15 months.

22 For all those reasons, we urge the Court to impose a
23 non-incarceratory sentence for Mr. Kolfage. Thank you, Judge.

24 THE COURT: Mr. Kolfage, would you like to say
25 anything?

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1 DEFENDANT KOLFAGE: Yes, your Honor. Remorseful,
2 disgusted and humiliated are just some of the words that
3 describe my actions in this case, and what I take full
4 responsibility for. I told people that I would not take any
5 money as part of the GoFundMe campaign, and I did. It was
6 wrong, a crime, and the worst decision I've made in my life.
7 I'm deeply sorry for my actions. Leading up to creating this
8 GoFundMe, I had the idea that maybe I could unite Americans
9 like Congresswoman Gabby Giffords did who I had the honor of
10 working with and do something great. This wasn't about
11 building walls. It wasn't about some elaborate scheme to take
12 \$20 million for myself, it was about putting the spotlight on
13 our broken immigration system as a whole and attempting to
14 unite the country for a greater good.

15 The GoFundMe was a vehicle to raise awareness. I was
16 sick and tired of seeing political sides using migrants as
17 pawns and never resolving the issue at hand. I'm the product of
18 two separate families who emigrated here. My mother's side from
19 Mexico. My father's side from Canada, two generations ago. I
20 thought maybe I could be the catalyst to spark the change that
21 would get our elected officials to overhaul our immigration
22 system. Maybe I could use my injuries for a greater good that
23 would impact people around the world, just not the United
24 States. This was my true intention. My behavior of helping
25 others over the past 20 years since being wounded is proof of

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1 my character. However, I grossly misjudged the immediate
2 impact this GoFundMe would have and the mass amount of funds
3 that it would actually generate over night. It took off, and I
4 wasn't prepared in any way to manage such a large project,
5 which is why I sought out help. I even went to the U.S.
6 Capital to meet with members of Congress and Senate to figure
7 out how to make this happen. I was met with closed doors and
8 dead ends as I rolled around seeking help from these elected
9 officials. I was in way over my head at this point. I say
10 this not to justify my actions, they were wrong, and I have
11 admitted my crimes. I say this only to give the Court some
12 context of my bad decisions. Anyone who knows me personally
13 knows how deeply invested I am in this country.

14 The events that took place on September 11, 2004, are
15 vividly in my thoughts like it was yesterday, and the reason
16 I'm so passionate about this country. I was laying mangled
17 bleeding out on the sandy Iraqi soil, fully awake, seeing my
18 right hand hanging by a few threads of skin and knowing my legs
19 were gone as my blood splattered all over my closest friends.
20 Surely they thought I was dead and the look on their faces are
21 burned into my memory today. This impacted every single
22 decision that I make in my life today. Every morning, the
23 moment I wake up and attempt to get out of bed, but cannot
24 without assistance, I'm reminded of the dreadful day. It's a
25 nightmare that never ends.

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1 I had great mentors leading up to this point in my
2 life like democrat Congresswoman Gabby Giffords. I learned a
3 lot from her. And although our political views may not always
4 align, she taught me the importance of uniting people for a
5 greater good. I was suppose to attend an event where she was
6 shot, and I would have been by her side that day. I was spared
7 my life again. Tragedy is what unfortunately I know. It's
8 followed me throughout my life. I just wanted to help people.
9 That's it. It shaped who I am today.

10 And I don't always properly filter my comments,
11 whether in public or private. Following my indictment, the
12 government is right. I made a lot of public comments on social
13 media. There was a media storm surrounding this case like
14 nothing I had ever been apart of. And the focus of many was to
15 demonize me, and I've never been in this situation before. I
16 reacted badly. I made some really bad choices and will forever
17 live with those consequences. I use to be known as the war
18 hero, who was inspirational. I've now tarnished this for life.
19 This behavior and actions are not in my character. This is not
20 who I am as a person -- then, not now. Some people who don't
21 take the time to know me personally misunderstand my deep
22 passion and love of our country as arrogant and aggressive, but
23 it's not. I'm just very passionate about our country because
24 what I went through as being such a traumatic event.

25 I don't want what happened to me to be in vain and for

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1 nothing. Sorry. I made the promise not to personally benefit,
2 not anyone else, and I broke that promise. I let many down. I
3 let the donors down. I let my family down, and I've been
4 humiliated by my poor decisions. Three years have pass since I
5 made these mistakes, and it's weighed on me heavily every
6 single day. Not a day has passed where I haven't asked myself
7 how did I allow this to happen. Why did I do this?

8 I'm blessed with such a great, caring young family.
9 Everyday I'm able to teach them new things and watch them grow
10 is all I look forward to now. My children are old enough now.
11 They can see and understand the struggle I face daily in our
12 home, something that no one else sees. No one gets to see that
13 struggle. It's personal. People only see me as this person in
14 a wheelchair missing all his limbs, who appears to be having
15 such a great life and always smiling. There's only one reason
16 I'm able to live any semblance of a stable life today, and it's
17 due to my family. They are my support system. They are there
18 to pick me up when I'm down. They assist me every single day
19 with mundane things that everyone takes for granted, things
20 like getting dress, zipping up my jacket, buttoning my shirt
21 and my pants. That's just the basics. I won't go into the
22 rest of the very personal things they do for me. Having them
23 in my life is the only reason I'm able to help others today.

24 Everyday is a battle for me. On a regular basis, I
25 face things that would make most grown men consider giving up

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1 their lives. No one can even imagine what it's like, and this
2 is exactly why for the past 20 years I have devoted my life to
3 helping others to overcome their challenges, because I face
4 these demons all too often. My life has continually been
5 spared from very traumatic life and death events for some
6 reason. I don't know why. Maybe this is my purpose just to
7 help others.

8 All I can do is admit my faults, learn from them and
9 grow, and use it to assist others who may be suffering from
10 something in their life. I'm positive the good I will do
11 following this chapter in my life will greatly outweigh all the
12 bad choices I have made involving this case. I will continue
13 to help people overcome their challenges just as I did before.
14 I ask the Court for leniency to see the real me beyond the
15 facts of this case. Thank you.

16 THE COURT: I'll hear from the government with respect
17 to Mr. Badolato.

18 MR. SOBELMAN: Your Honor, Mr. Badolato had a
19 different role than Mr. Kolfage. While Mr. Kolfage was very
20 public, Mr. Badolato was behind the scenes in the shadows. He
21 played a central role in the scheme. It was he and Mr. Bannon
22 who principally came up with the precise way that they would
23 funnel money out of the organization to Mr. Kolfage and to
24 others. And Mr. Badolato worked mostly at Mr. Bannon's
25 direction to make it all happen. He was the one that -- sort

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1 of the connective tissue between Mr. Kolfage, Mr. Bannon, and
2 to some extent Mr. Shea and others in perpetrating the scheme.
3 He was the one who made sure the kickbacks got paid on
4 schedule, help figure out what passthrough vehicle the
5 laundering of the funds would occur. And he knew that what was
6 being said were lies, and he was one of the people, him and
7 Mr. Bannon that suggested the way in which Mr. Kolfage would
8 lie, and he was the one who spoke directly with Mr. Kolfage
9 about what should be said to the public, how it should be said
10 to the public and donors.

11 Mr. Badolato is, as I mentioned earlier, differently
12 situated than Mr. Kolfage, Mr. Bannon, Mr. Shea in a couple of
13 ways. One, he didn't profit as much as Mr. Bannon, Mr. Kolfage
14 or Mr. Shea did from the scheme. He was paid sort of a fixed
15 fee monthly for his consulting, and he did do a number of sort
16 of legitimate work for the organization as well in helping
17 build the portions of The Wall that were built on the
18 properties that We Build the Wall owned or controlled, and had
19 a pretty large role almost in the government's view sort of a
20 chief operating officer, but without necessarily the title or
21 all of the authority. Mr. Badolato also hasn't made public
22 pronouncements about the case after his arrest, after his
23 guilty plea, and the government has much less concern about his
24 recidivism or specific deterrence with respect to him than we
25 do with respect to Mr. Kolfage.

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1 Your Honor, we recognize that Mr. Badolato suffers
2 some health challenges and sets forth some mitigating factors
3 in his submission, some of which are under seal so I won't
4 discuss them unless your Honor has questions about them, but we
5 do think a substantial incarceration sentence is called for in
6 light of his conduct, although we do think the Court should
7 credit him for early acceptance of responsibility and give him
8 whatever consideration the Court deems appropriate for his
9 health challenges and other difficulties.

10 THE COURT: Mr. Kramer.

11 MR. KRAMER: Thank you, your Honor. Thank you, your
12 Honor, for the opportunity to address the Court today. Like
13 every defendant, Andy Badolato is many things. He's a dad.
14 He's a son, a brother, a businessman, a patient, but he's also
15 a felon, and that's why we're all here together today. And so
16 I'd like to talk about that a little bit because as you've
17 heard from the government here, Andy owns this crime and
18 accepted responsibility for it in a way that's unique among his
19 co-defendants past and present. I'd also like to talk a little
20 bit about how Andy responded to his arrest. Because again,
21 Andy's role is quite different. It tells you a little bit
22 about his personal circumstances and his personal qualities.
23 And the summary is that he responded exactly the way that you
24 would want a defendant to respond. This is a man who accepted
25 responsibility, indicated early on that he was prepared to

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1 assist law enforcement, and took substantial steps to do so.

2 And I won't go into details unless the Court has questions
3 about that, but it's an important distinguishing factor in this
4 case, and I'll speak more about that in a minute.

5 I'll also need to talk to you a little bit about
6 Andy's health. As you heard from the government, Andy's got
7 some serial health challenges. Some of them are routine for a
8 50-plus year old man. The stroke he suffered last year is a
9 completely different animal. And I have to tell the Court that
10 I have not been face to face with Andy since that happened
11 until today, and there was a night and day distinction where I
12 just feel like I have to flag that. I also will talk a little
13 bit about Andy's family responsibilities. And I do want at the
14 outset to acknowledge that we mentioned Andy's son in our
15 pleadings. We mentioned that he was on track to graduate from
16 his program, and that he hoped to be able to live with Andy.
17 He's in the courtroom today. And I just wanted to acknowledge
18 that and thank him for driving up with Andy. I know how much
19 Andy appreciated that support in this really difficult time.

20 So let me go back to the offense conduct because again
21 that's why we're here. Andy pled guilty to a wire fraud
22 conspiracy, and he pled guilty to a conspiracy because he's
23 guilty. He knows that. He owns that. It's his epitaph. That
24 is the reality of his life today. So what happened? How did
25 this go wrong? Well, Mr. Kolfage came up with what seem to be

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1 a great idea. He tapped into something sort of deep and
2 important for many people believed honestly and in good faith
3 that a wall on the southern border would help with crime and
4 help with immigration. And he went public with that idea, and
5 obviously he raised a huge amount of money.

6 And the media started to look at Brian a little more
7 closely. They wanted to understand who Mr. Kolfage was, and
8 they raised some questions about him, Could we trust the
9 donations would go to the right place. Andy knew about that.
10 He did. He talked about it with Mr. Bannon. And Mr. Bannon
11 said, that's not a problem. I'll pay him myself. And at first
12 that gave Andy some comfort because it meant that if Mr. Bannon
13 was paying Mr. Kolfage with his own funds, that the statements
14 might not be false, that the statements might be true. He
15 wasn't getting paid by We Build the Wall, that he was being
16 paid by a private donor.

17 And then Mr. Bannon wrote a \$100,000 check from his
18 501 C4 or whatever the technical description is. And guess
19 what that check did, it bounced. There's no money. And that's
20 when Andy knew he had a problem, because that's when Mr. Bannon
21 started to call him to say, you need to wire We Build the Walls
22 funds to my entity. And that's when Andy knew that the lies
23 were lies. It made him uncomfortable, but he never did
24 anything to stop it. And in fact, he went on, as you heard
25 from the government, he did facilitate some of these payments

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1 as well. He was the middleman. He was stuck between two
2 sides. All told, Mr. Bannon received more than a million
3 dollars from We Build the Wall, and Mr. Kolfage received more
4 than \$350,000. As you heard the government mention, Andy's
5 situation is different. Andy entered into a consulting
6 contract with We Build the Wall. It was approved by the board.
7 He provided legitimate consulting services. He was on the
8 ground in the places that they were interested in building. He
9 was working on Wall-a-Thon. He was paid something like
10 \$174,000.

11 As the government put it in their sentencing papers,
12 the benefits paled in comparison to his co-defendants, so his
13 role is quite different. So was he part of the scheme,
14 absolutely, 100 percent. He owns that. But was he the leader?
15 Absolutely not. Was he one of the primary beneficiaries? He
16 was not. So he's made some clearly terrible decisions, and
17 that's why we're here today. He's a felon, and that's our
18 starting point. But let me tell you a little bit about what
19 Andy did when this offense was discovered. After Andy was
20 arrested, I spoke with him almost immediately, and he made some
21 difficult decisions. One of the things that the Court might
22 recall, I believe your Honor actually may have warned the
23 parties at the time, there were a number of inflammatory
24 statements made when this case was indicted. Andy didn't do
25 that. Andy said nothing. He didn't say, like Mr. Bannon, that

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1 this case was a fiasco and a political hit job. He didn't say
2 that. He didn't say that this was an effort to intimidate
3 supporters of President Trump. That's not what Andy said.
4 Andy said nothing.

5 And he didn't say, like Mr. Bannon did, just a couple
6 of months ago in the New York case that the whole thing was a
7 sham. Andy said nothing because he decided right away. He
8 decided right away that he needed to accept responsibility for
9 this. He needed to try to find a way to cooperate with the
10 government. He needed to find a way to try to make it right,
11 and that's what he set out to do. And you know from the Sil
12 submissions I think to some extent at least what Andy's able to
13 say substantively about what happened in this case, about the
14 leadership here, and I won't go into details unless the Court
15 has questions because I have no understanding of where the
16 state court really sits and whether there can be any prejudice
17 to it, so I don't want to address it in open court.

18 Now the government credits Andy in its sentencing memo
19 with providing truthful and accurate information about the
20 offense conduct, but it elected, as its right, it's total in
21 its right not to file a 5K, and I'm not complaining about that.
22 I just want to be clear. I'm not suggesting that there's
23 something bad faith or improper about that. That's the
24 government's decision. It's a unilateral one. They're entitled
25 to make it. But if you look at the sentencing memo, they

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1 explain that one of the chief reasons that Andy did not get a
2 5K is that under the unique facts of this case, he wasn't able
3 to provide substantial assistance. And here's a quote, While
4 he, meaning Andy, had information about the involvement of
5 Bannon and Kolfage in the charged offense conduct, Bannon was
6 pardoned. And the information about Kolfage was not additive
7 (and Kolfage ultimately pled guilty).

8 And that brings us to the elephant in the room.
9 Bannon was pardoned. A single defendant plucked from the case
10 before he'd even gone to trial. Why? Well, it didn't have
11 anything to do with the evidence. As the Court's heard,
12 Mr. Bannon was both the leader of the scheme and the primary
13 beneficiary. So the pardon wasn't about the facts. I've got
14 my views, but the Court doesn't need to go there as to what was
15 really going on. But the Court does have to answer a question,
16 which is this: What does the pardon mean for Andy? Does it
17 mean that Andy didn't do the work; that he didn't come
18 prepared; that he didn't tell the truth; that he didn't meet
19 with the government eight plus times? I don't think it means
20 that at all. Andy did what he could to cooperate. He couldn't
21 control a pardon granted by the former president. And I
22 respectfully suggest that the Court shouldn't hold that pardon
23 against him, because it's not his fault.

24 I suggest that the Court should credit Mr. Badolato
25 for what he did, because that's how our system works. As a

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1 defense attorney I need to be able to tell clients, the
2 cooperation has benefits. I need to be able to make
3 representations. It's not going to be a pardon. You don't
4 have to worry about that. The system is fair. And when that's
5 undermined, and when that's undermined we find ourselves in a
6 very difficult situation. The government talks a bit about
7 general deterrence in its memo. I don't disagree. General
8 deterrence is also important, but I also think the message in
9 this case, as it relates to Andy, is somewhat unique because
10 the Court has an opportunity to send the message that it's
11 true. People who cooperate in good faith who provide truthful
12 and accurate information about their role and about their
13 co-defendant's role, including a very powerful, very powerful
14 political figure, receive the benefit for that when it comes to
15 sentencing. It's a very important message and I urge the Court
16 to do that.

17 And legally, of course, there's two ways for the Court
18 to do that. First, the Court can consider Andy's efforts,
19 because under Second Circuit law, they clearly go towards his
20 personal history and characteristics. So the Court can
21 consider that as part of the normal Sentencing Reform Act,
22 Section 3553 factors. And I'd be remiss not to point out that
23 this isn't the first time that Andy has cooperated with federal
24 authorities. We noted in a footnote a prior case from ten plus
25 years ago where he was not implicated at all, but he was asked

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1 by the FBI to assist and to engage in proactive cooperation
2 regarding legitimate mafia associated character. He did it.
3 He wore a wire. He recorded conversations, at some risk that
4 the recordings demonstrate a threat to his life. I'm not
5 saying that's dispositive here, but again it goes to who Andy
6 is, what his personal characteristic and circumstances dictate
7 that the Court think about when it comes to what efforts did he
8 make here.

9 Second, the Court can also consider Andy's role under
10 guideline Section 5K2.0, because again under Second Circuit
11 authority, it's clear that the U.S. Attorney's office does not
12 really have a vote, if you will, as it relates to assessing a
13 defendant's efforts with state or local law enforcement.
14 That's a decision for the Court. And we have filed as you know
15 under seal some lengthy transcripts. And again, I would be
16 happy to answer questions about them, including if there's
17 particular passages if the Court has questions about their
18 import or the value of that testimony. But again, I do not
19 think it would be appropriate to do that in open court. What I
20 would summarize at the end here is that there are sentencing
21 recommendations that have been made by both probation and the
22 U.S. Attorney's office. I think it's fair to say that neither
23 of those recommendations take into consideration the extent or
24 value of what he's been able to do as it relates to state and
25 local law enforcement.

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1 And I would point out that obviously the trial is
2 scheduled. It is pending. Mr. Bannon faces serious charges.
3 I do not know if Andy will be a witness, in part because of the
4 stroke he suffered, and I'll talk about that in a minute; but
5 he stands ready to do so if that's the decision that the
6 prosecutors make.

7 There are two other major mitigating factors here that
8 I'd like to talk about briefly. The first is Andy's health.
9 Andy suffers from a host of medical conditions. You saw the
10 papers. We submitted a declaration from his brother, who's
11 also his treating physician. And we submitted it as a
12 declaration because we wanted it to be clear to the Court that
13 this was a submission of a medical professional, not his
14 brother. This is someone who treats him. He sends a separate
15 letter. That wasn't a declaration. And there's no question.
16 The government has never challenged that any of these
17 conditions are serious. They never challenged that they're
18 going to be difficult for anyone to deal with.

19 As we noted in the memo, Andy suffered an ICH stroke
20 last year, which is a couple of months I believe after the
21 testimony. Those strokes are quite deadly. He was lucky to
22 survive. And the statistics around these conditions are that
23 it's very unlikely, just statistically, that someone who
24 suffers one of these strokes will be alive five years
25 thereafter. And it's unfortunately because these strokes

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1 reoccur. Once you have one, you're likely to have another, and
2 we don't know how to stop that. The government mentions
3 that -- they concede the stroke makes it much less likely
4 there's going to be any recidivism in this case. And I
5 appreciate that acknowledge and I agree. But to me, it's not
6 just a question of recidivism, because recidivism, that goes to
7 whether there's going to be any harm done in the future. The
8 question for me is more one of justice. If a man like Andy is
9 facing a varying certain medical future, and is more likely
10 than not that he will not survive a sentence of incarceration,
11 I think that's something that the Court should consider, and it
12 might weigh on my conscious. And I think it would weigh on
13 anyone's conscious if you think about what's the fairest most
14 just way to resolve this case.

15 And lastly, Andy's family circumstances are, he's got
16 substantial responsibilities. As the Court knows from our
17 memo, he lives today with his parents. His father is a stroke
18 survivor -- not an ICH stroke I should point out, but he
19 requires substantial assistance, and Andy's able to do some of
20 that for him, not all of it. I'm not trying to suggest that
21 Andy's a medical professional or a Vet. He's got the capacity
22 to do that kind of work today, because he does not. Andy's
23 struggling in many respects with his own personal life. But
24 Andy's been a very important source of inspiration and comfort
25 to his son as well, who as I mentioned is here.

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1 Billy has completed that program that we referenced.
2 He is in sort of a probationary state as he works his way into
3 a halfway house and ultimately into -- back integrated into
4 hopefully Andy's home. I think Andy's very proud of his
5 family, and he's very grateful for the support that they've all
6 shown. As you saw from the letters, including from his father
7 and his mother, all of his sons and his brothers. I know it's
8 a comfort to Andy to have had Billy to be able to drive up with
9 him today -- well, past few days. And I hope Andy's able to
10 continue to have that kind of relationship with his son as he
11 moves forward with his life.

12 For all of those reasons, unless the Court has
13 questions about those other materials, I would respectfully
14 urge the Court to impose a sentence of probation. There's
15 agreed forfeitures and restitution. I'd suggest that there
16 should not be a criminal fine. Andy doesn't have the ability
17 to pay. And I'd urge the Court to find a way to have Andy be
18 able to spend time with his family and be able to have his
19 medical conditions treated in appropriate ways short of
20 incarceration. And with that unless the Court has questions,
21 I'm prepared to sit down.

22 THE COURT: Mr. Badolato, would you like to say
23 something.

24 DEFENDANT BADOLATO: Yes, I would. Yes, your Honor.
25 I sincerely apologize to the donors, this court, my family and

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1 all others involved. I very, very deeply regret my actions.
2 Since the very beginning, I have been truthful, honest and
3 consistent with my lawyers, the SDNY, the state of New York and
4 myself. I am blessed with a family and friends that have
5 forgiven me and stand by my side even though I have caused them
6 to suffer. I beg this Court's forgiveness and place myself at
7 your mercy, your Honor, and special thanks to my son for
8 driving up here with me. Thank you.

9 THE COURT: Is there any reason a sentence should not
10 be imposed at this time?

11 MR. SOBELMAN: No, your Honor.

12 MR. KRAMER: No, your Honor.

13 MR. De CASTRO: No, your Honor.

14 THE COURT: As I have stated the guidelines range to
15 be used in this case is 51 to 63 months' imprisonment for
16 Mr. Kolfage, and 41 to 51 months' imprisonment for
17 Mr. Badolato. Under the Supreme Court's decision in *Booker* and
18 its progeny, the guidelines range is only one factor that I
19 must consider in deciding the appropriate sentence. I'm also
20 required to consider the other factors set forth in 18, United
21 States Code, Section 3553(a). These include, first, the nature
22 and circumstances of the offense and the history and
23 characteristics of the defendant. Second, the need for the
24 sentence imposed to reflect the seriousness of the offense; to
25 promote respect for the law and to provide just punishment for

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1 the offense; to afford adequate deterrence to criminal conduct;
2 to protect the public from further crimes of the defendant; and
3 to provide the defendant with needed educational or vocational
4 training, medical care or other correctional treatment in the
5 most effective manner.

6 Third, the kinds of sentences available. Fourth, the
7 guidelines range. Fifth, any pertinent policy statement.
8 Sixth, the need to avoid unwarranted sentence disparities among
9 defendants with similar records who have been found guilty of
10 similar conduct. And seven, the need to provide restitution to
11 any victims of the offense. Ultimately, I'm required to impose
12 a sentence sufficient, but no greater than necessary, to comply
13 with the purposes of sentencing that I have just mentioned. I
14 given substantial thought and attention to the appropriate
15 sentence for these defendants, in light of the Section 3553(a)
16 factors, and the purposes of sentencing as reflected in the
17 statute.

18 On the one hand, the defendants committed a serious
19 offense. In December 2018, through a crowd funding website
20 known as GoFundMe, Mr. Kolfage initiated an online fundraising
21 campaign that generated more than \$20 million. According to
22 webpage statements, the campaign planned to donate the money to
23 the federal government for the construction of a wall along the
24 southern border of the United States. Within a month after
25 questions arose concerning Mr. Kolfage's background and the

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1 campaign's stated purpose, GoFundMe suspended the campaign,
2 warning Mr. Kolfage that "unless he identified a legitimate
3 non-profit organization, and to which those funds could be
4 transferred, the crowd funding website would return the funds."

5 Mr. Kolfage then involved Mr. Badolato in the
6 leadership of the fundraising efforts. Defendants established
7 a none-for-profit entity called We Build the Wall to receive
8 the money contributed to the online campaign in order to fund
9 the private construction of a wall. To persuade GoFundMe to
10 release the funds to We Build the Wall, Mr. Kolfage,
11 Mr. Badolato, and others agreed that donors would have to
12 opt-in to the rerouting of the money effectively causing We
13 Build the Wall to reraise the funds by convincing donors to
14 permit the transfer. Mr. Kolfage and Mr. Badolato also made a
15 series of representations and assurances to GoFundMe, including
16 their commitment to put into place written bylaws, and a
17 promise that Mr. Kolfage would not be compensated from donor
18 funds.

19 Starting in January 2019, Mr. Kolfage and Mr. Badolato
20 in donor solicitations, public statements, social media posts
21 and press appearances promised donors that a hundred percent of
22 funds raised would be used for the construction of the Wall,
23 not a penny would be used to compensate Mr. Kolfage. They also
24 said that the leadership of We Build the Wall and its advisory
25 board would not be compensated.

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1 However, within days of the launch of We Build the
2 Wall, Mr. Kolfage among others and Mr. Badolato secretly agreed
3 that Mr. Kolfage would be paid a \$100,000 upfront, and then
4 \$20,000 per month. This monthly salary, along with other
5 payments began to pass to defendants through shell companies.
6 And then in October 2019, when defendants learned of a possible
7 criminal investigation, Mr. Kolfage and others took additional
8 steps to conceal their scheme, including ceasing payments,
9 using encrypted messaging applications and editing We Build the
10 Wall's website to remove the promise that Mr. Kolfage was not
11 being paid.

12 Between January and October 2019, We Build the Wall
13 raised about \$25 million consisting of most of the \$20 million,
14 which donors opted into transferring and newly donated funds.
15 By October of 2019, Mr. Kolfage had received more than \$350,000
16 in donor funds, which he spent on travel, hotels and personal
17 credit card debt. After engaging in this fraud, Mr. Kolfage
18 separately conducted an extensive tax fraud scheme in which he
19 repeatedly lied to the IRS to avoid paying taxes on his gains
20 from the We Build the Wall fraud. But on the other hand, there
21 are mitigating factors that weigh in the defendant's favor. I
22 will start with Mr. Kolfage.

23 At the age of 41, these are Mr. Kolfage's first
24 criminal convictions. He had a difficult childhood.
25 Mr. Kolfage was the product of a broken home, struggled in

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1 school and eventually dropped out. When he realized his life
2 was heading in the wrong direction, in January 2001,
3 Mr. Kolfage enlisted in the Air Force. In 2003, he was
4 deployed to Kuwait. On September 11, 2004, while stationed in
5 Iraq, Mr. Kolfage was struck with a mortar during an attack,
6 and as a result lost his legs and his right hand.

7 Based on his military actions and achievements, he
8 received numerous commendations, including the Purple Heart.
9 After his military service, Mr. Kolfage earned a college
10 degree. Currently he spends much of his time volunteering for
11 various veteran's organizations. The government agrees that
12 Mr. Kolfage's injuries, physical condition and health
13 circumstances are mitigating factors. He suffers from several
14 medical conditions, has limited mobility in his day-to-day life
15 and requires assistance. Mr. Kolfage continues to have the
16 strong support of his friends and family. Valentine Cortes,
17 Mr. Kolfage's friend from the Air Force writes that Mr. Kolfage
18 "continues to be an inspiration for all that knew him. It
19 takes a special kind of man to suffer through all his personal
20 and physical sacrifices and still remain a good father and
21 husband " Danya Feltzin writes that he "is genuinely a good
22 man. He is a dedicated husband, supportive father, and
23 reliable friend." Brian Kolfage, Mr. Kolfage's father writes
24 that he is a "caring compassionate person." Several other
25 letters in Mr. Kolfage's sentencing submission state the same.

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1 Furthermore, Mr. Kolfage has taken responsibility for
2 his actions and expressed regret for his behavior as reflected
3 in his plea of guilty and his statements here today.

4 I now turn to Mr. Badolato. Mr. Badolato is 58 years
5 old. This is his first criminal conviction. He suffers from
6 several medical conditions, including high blood pressure,
7 depression, and alcohol abuse. Last June Mr. Badolato suffered
8 a stroke. He now struggles with cognitive difficulties,
9 including problems with short-term memory and the inability to
10 find words. Mr. Badolato maintains from close relationships
11 with his family. After his stroke, he moved in with his
12 parents, who are in their late 70s. He performs basic
13 household tasks and watches over them, and they also assist him
14 with his medical needs.

15 The Court has received two dozen letters in support of
16 Mr. Badolato. Enoch Reynolds, Mr. Badolato's brother writes
17 that Mr. Badolato "is a very generous kind man." Melissa H.
18 Badolato, Mr. Badolato's ex-wife writes that he is the "hardest
19 working person she knows." and "has always been a wonderful
20 provider for their family, not only financially, but also as a
21 well-educated adviser, mentor and parent." Kenneth and
22 Patricia Badolato, Mr. Badolato's parents, state that
23 Mr. Badolato's moving back into their home has "blessing" and
24 he has "been a big help." Michael, William and Robert Badolato,
25 Mr. Badolato's sons write that he is "inseparable" from his

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1 grandchildren "a positive influence throughout their entire
2 life" and "has been such a great inspiration." The Court has
3 reviewed over 15 other letters, and they all convey the same
4 sentiment. Mr. Badolato has taken responsibility for his
5 actions and expressed regret for his behavior as reflected by
6 his plea of guilty and his statements here in court.
7 Mr. Badolato began offering information to the government and
8 expressed an interest in pleading guilty months before
9 Mr. Kolfage did.

10 The government states that Mr. Badolato provided
11 "timely and accurate information about the offense conduct."
12 Finally, the Court considers that Mr. Badolato had a lesser
13 role in the fraud compared to the other defendants. He did not
14 misappropriate the stolen funds for his personal use, and did
15 not participate in creating the false backdated documents to
16 conceal the wrongdoing. If there is ever a day in a person's
17 life when he's entitled to be judged on the basis of the
18 entirety of his background and contributions is sentencing.
19 And Section 3553(a) in directing the Court to consider the
20 history and characteristics of the offender is consistent with
21 that. The sentence I will impose today will credit Mr. Kolfage
22 and Mr. Badolato for their good qualities and recognize the
23 seriousness of their crimes.

24 Last October two individuals Bill Ward and Nicole
25 Keller, both victims of the fraudulent scheme testified at the

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1 trial of co-defendant Timothy Shea, who will be sentenced in
2 June. Mr. Ward, the retiree from Gold Canyon, Arizona, who
3 served 21 years in the army, took the stand and stated that he
4 had donated a \$100 to We Build the Wall because he believes
5 that Congress has failed to address the immigration problem at
6 the southern border. Mr. Ward said "I just felt I'd been
7 cheated."

8 Ms. Keller, a 10th grade biology teacher from
9 Lancaster County, Pennsylvania, testified that she contributed
10 between 50 and \$100 because her late husband was a border
11 patrol agent, and border security was an issue of great concern
12 to him. She feels the same way. Ms. Keller said "I was
13 insulted that somebody had taken what should be a position of
14 honor and valor, being injured for their country, and instead
15 used it to defraud me."

16 This was no ordinary financial fraud. When Mr. Ward
17 and Ms. Keller donated their money to build the wall, they were
18 expressing their views about a political issue that was
19 important to them -- immigration. Supporting We Build the Wall
20 was their way of participating in the fabric of our democracy.
21 It was a form of taking part in the political process. But now
22 the infamous We Build the Wall scheme will no doubt have a
23 chilling effect on civic participation in the political realm.
24 Other American citizens may be reluctant to contribute their
25 money to support a candidate or an organization because they

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1 fear that the funds will not be used for the stated purpose.

2 A democracy means the engagement of ordinary citizens,
3 like Mr. Ward and Ms. Keller. If we leave it up to battles
4 among politicians, corporations and the media, we risk losing
5 our democracy. Currently what are the authoritarian
6 governments doing around the world? They crush the press.
7 They suppress the vote. They pack the courts, and they banish
8 civic organizations to prevent them from participating in the
9 political sphere. For our democracy to work, we need to
10 encourage broad civic participation. Mr. Ward and Ms. Keller
11 express one political point of view, but it does not matter
12 whether you agree with them or not. All citizens have the
13 responsibility to inform themselves about the issues of the day
14 and to get involved.

15 The fraud perpetrated by Mr. Kolfage and Mr. Badolato
16 went well-beyond ripping off individual donors. They hurt us
17 all by eroding the public's faith in the political process.
18 The fraudsters behind We Build the Wall injured the body
19 politic. I conclude, therefore, for all the reasons stated
20 that a sentence within the guidelines range is merited for
21 Mr. Kolfage, and that a sentence below the guidelines range is
22 appropriate for Mr. Badolato. Accordingly, I do believe a
23 variance pursuant to 18, United States Code, Section 3553(a) is
24 warranted for Mr. Badolato.

25 Mr. Kolfage and Mr. Badolato, I shall now pronounce

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1 your sentence. Mr. Kolfage, it is the judgment of this Court
2 that you are sentenced to 51 months imprisonment for each count
3 in both docket number 20 Cr. 412 and docket number 20 Cr. 201
4 to run concurrently, and to be followed by three years of
5 supervised release for each count in both cases to run
6 concurrently.

7 Mr. Badolato, you are sentenced to 36 months
8 imprisonment, to be followed by three years of supervised
9 release. Mr. Kolfage, I also impose a fine of \$20,000 to be
10 paid in monthly installments of \$500 starting 30 days after
11 your release from custody. Mr. Badolato, there will be no fine
12 because probation reports that you're not able to pay a fine.
13 Although each of you must pay the mandatory \$100 special
14 assessment which is due immediately. The mandatory and
15 standard conditions of supervised release set forth on pages 50
16 to 52 of Mr. Kolfage's presentence report, and pages 36 to 37
17 of Mr. Badolato's presentence report shall apply. In addition,
18 the following special conditions shall apply to each of you.

19 You shall submit your person and any property,
20 residence, vehicle, papers, computer, other electronic
21 communications, data storage devices, cloud storage or media
22 and effects to a search by any United States probation officer;
23 and if needed, with the assistance of any law enforcement. The
24 search is to be conducted when there is a reasonable suspicion
25 concerning violation of a condition of supervision or unlawful

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1 conduct by the person being supervised. Failure to submit to a
2 search may be grounds for revocation of release. You shall
3 warn any other occupants that the premises may be subject to
4 searches pursuant to this condition. Any search shall be
5 conducted at a reasonable time and in a reasonable manner. You
6 must provide the probation officer with access to any requested
7 financial information. You must not incur new credit charges
8 or open additional lines of credit without the approval of
9 probation unless you are in compliance with the installment
10 payment schedule.

11 If the probation officer determines based on your
12 criminal record, personal history or characteristics that you
13 pose a risk to another person, including an organization, the
14 probation officer, with the prior approval of the Court, may
15 require you to notify the person about the risk, and you must
16 comply with that instruction. The probation officer may
17 contact the person and confirm that you have notified the
18 person about the risk. It is recommended that you be
19 supervised in the district of residence.

20 Mr. Kolfage, the following special condition shall
21 also apply to you. You must perform community service at a
22 rate of 250 hours per year for each of the three years of
23 supervised release to be approved, of course, by the probation
24 office.

25 Mr. Badolato, the following special conditions apply

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1 to you: You will participate in an outpatient treatment
2 program approved by United States probation office, which
3 program may include testing to determine whether you have
4 reverted to using drugs or alcohol. You must contribute to the
5 cost of services rendered based on your ability to pay and the
6 availability of third-party payments. The Court authorizes the
7 release of available drug treatment evaluations and reports,
8 including the presentence investigation report to the substance
9 use disorder treatment provider. You must participate in an
10 outpatient mental health treatment program approved by
11 probation. You must continue to take any prescribed
12 medications, unless otherwise instructed by the healthcare
13 provider.

14 You must contribute to the cost of services rendered
15 based on your ability to pay and the availability of
16 third-party payments. The Court authorizes the release of
17 available psychological and psychiatric evaluations and
18 reports, including the presentence report to any healthcare
19 provider. Mr. Kolfage and Mr. Badolato, you are jointly and
20 severally responsible for paying restitution in the amount of
21 \$25,601,650. Mr. Kolfage, you are also responsible for paying
22 restitution in the amount of \$143,000. These payments are
23 payable to victims specified by the government in accordance
24 with the terms outlined in the restitution order, which includes
25 upon your release from prison, you shall commence monthly

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1 installment payments in an amount equal to 15 percent of your
2 gross income payable on the first of each month.

3 You must notify the Clerk of Court, the probation
4 officer and the United States Attorney for this district within
5 30 days of any change of mailing or residence address that
6 occurs or any material change in financial resources that
7 affects your ability to pay restitution while any portion of
8 the restitution remains unpaid.

9 Finally, I'm also required to remind you that as a
10 result of committing the offense alleged in Count One of the
11 superseding indictment, you shall forfeit to the United States
12 pursuant to 18, United States Code, Section 981(a)(1)(C), 21
13 United States Code, Section 853, and 28, United States Code,
14 Section 2461(c), any and all property constituting or derived
15 from any proceeds you obtained directly or indirectly as a
16 result of the violation, and any and all property used or
17 intended to be used in any manner or part to commit and to
18 facilitate the commission of the offense alleged in Count One
19 of the superseding indictment.

20 Mr. Kolfage, specifically that is a sum of
21 \$17,782,106, and all right, title and interest of the defendant
22 and the following specific property: \$1,371,418 contained in
23 Capital One account number 3017095806 held in the name of We
24 Build the Wall, Inc. Mr. Badolato, specifically that is a sum
25 of \$1,414,368, and all right, title and interest to any funds

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1 contained in Capital One account number 3027095806, held in the
2 name of We Build the Wall, Inc. Do the attorneys know of any
3 legal reason why the sentence should not be imposed as stated?

4 MR. SOBELMAN: Your Honor, just one moment. Your
5 Honor, just two brief amendments. One with respect to
6 Mr. Kolfage because there are four counts, the special
7 assessment should be \$400 rather than \$100.

8 THE COURT: I stand corrected. You're right. It
9 should be \$400.

10 MR. SOBELMAN: And your Honor already issued a final
11 order of forfeiture with respect to other items of specific
12 property that Mr. Kolfage forfeited. The docket number is 351.
13 One is \$5,179.39 that was in an Anedot account held by We Build
14 the wall, and the second was real property in Sunland Park as
15 described in the Court's order.

16 THE COURT: That is correct.

17 MR. KRAMER: Your Honor, I had a couple of small
18 things. It's not clear to me with respect to the restitution
19 order. We had submitted an agreed restitution order which
20 included an apportionment of liability. Is that being adopted
21 here?

22 THE COURT: The one submitted by the government is
23 being adopted, yes.

24 MR. KRAMER: I just wanted to be clear the
25 apportionment was part of the sentence.

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1 THE COURT: Yes, it sets forth specific amounts.

2 MR. KRAMER: And then two request is that we would
3 request given the Court's sentence that the Court recommends
4 that Mr. Badolato be assigned to the federal prison camp in
5 Pensacola, Florida, which would at least be closer to his
6 family; and that he be considered for participation in the
7 RDAP, Residential, Drug and Alcohol program.

8 THE COURT: I will make both of those recommendations.

9 MR. De CASTRO: Judge, I think answering your
10 question, no reason that sentence cannot be imposed. I also
11 have a couple of recommendations, but I'll let you finish.

12 THE COURT: The sentence as stated is imposed, both
13 sentences, all sentences. Those are the sentences of the
14 Court. Mr. Kolfage and Mr. Badolato, you have the right to
15 appeal your conviction and sentence, except to whatever extent
16 you may have waived that right as part of your plea agreement.
17 The notice of appeal must be filed within 14 days of the
18 judgment of conviction.

19 (Pause)

20 THE COURT: My law clerk has pointed out that I may
21 have made an error with respect to Mr. Badolato's Capital
22 One -- I'm sorry, no. Mr. Kolfage's Capital One account number.
23 That account is 3027095806. As I was saying, you have a right
24 to appeal your conviction and sentence, except to whatever
25 extent you may have validly waived that right as part of your

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1 plea agreement. The notice of appeal must be filed within 14
2 days of the judgment of conviction. If you're not able to pay
3 the cost of an appeal, you may apply for leave to appeal *in*
4 *forma pauperis*. If you request, the clerk of court will
5 prepare and file a notice of appeal on your behalf. I
6 understand that probation recommends voluntary surrender. Have
7 the parties agreed to a date?

8 MR. De CASTRO: We have not discussed that, your
9 Honor.

10 THE COURT: Well, then I'm going to suggest May 26th.

11 MR. KRAMER: Your Honor, may I request that
12 Mr. Badolato's date be set about 90 days out. He was scheduled
13 to go for a surgery with respect to his stints in his heart,
14 and 90 days would give him time to recover and then report.

15 THE COURT: That is acceptable.

16 MR. De CASTRO: Your Honor, two things. I would also
17 request 90 days, and the reason I would request that is first
18 of all, my experience with the BOP is they have to do a
19 determination as to where. Obviously they make a designation.
20 It's much more complicated as it relates to Mr. Kolfage. I'd
21 ask that the Court recommend that he go to a federal medical
22 facility. There's reference in the letter from BOP that they
23 would consider him for general population. I don't know how
24 that's possible. And I've had many clients with much less
25 medical issues that go to a medical facility, a hospital. It's

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1 a prison, but it's a hospital. And I know, at least I know
2 from experience that it takes them a while, takes much longer
3 than 30 days. My experience is it's about 90 days, so I would
4 ask that the Court allow 90-day surrender, assuming that the
5 Bureau of Prisons is able to assign him.

6 THE COURT: I will permit 90-days, period, and I will
7 recommend a medical facility, but the outside date is 90 days.
8 Are there any further applications?

9 MR. SOBELMAN: Yes, your Honor. At this time, the
10 government respectfully request that the opens counts as to
11 these two defendants be dismissed.

12 THE COURT: They are dismissed. Mr. Kolfage and
13 Mr. Badolato, good luck to you. The matter is adjourned.

14 (Adjourned)
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